

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STEELWORKERS, DISTRICT 10 AND	:	
PENNSYLVANIA HEAVY & HIGHWAY	:	
CONTRACTORS BARGAINING ASSOCIATION	:	CIVIL ACTION
PENSION TRUST FUND AND PLAN,	:	
c/o Zenith American Solutions	:	
3 Gateway Center 401 Liberty Ave. Suite 1200	:	NO.
Pittsburgh, PA 15222	:	

and

: MICHAEL SAPORITO, TRUSTEE,	:	
315-317 North Washington St. Suite 2,	:	
Wilkes-Barre, PA 18705,	:	

Plaintiffs,

v.

: BELLADARO GROUP, INC.,	:	
1380 Mount Cobb Rd	:	
Lake Ariel, PA 18436	:	

: SCE ENVIRONMENTAL GROUP, INC.,	:	
1380 Mount Cobb Rd	:	
Lake Ariel, PA 18436	:	

: J.C. SQUARE GP, LLC,	:	
1380 Mount Cobb Rd	:	
Lake Ariel, PA 18436	:	

: JC SQUARE LP,	:	
1380 Mount Cobb Rd	:	
Lake Ariel, PA 18436	:	

: HELICOR AVIATION, LLC,	:	
803 Albert Street	:	
Dickson City, PA 18519	:	

: VALKARR MOTORSPORTS, LLC,	:	
803 Albert Street	:	
Dickson City, PA 18519	:	

OPASHIA, LLC, :
1380 Mount Cobb Rd :
Lake Ariel, PA 18436 :

SUSQUEHANNA PARTNERS, LLC, :
1380 Mount Cobb Rd :
Lake Ariel, PA 18436 :

FLEXIBLE AUTO SALES, INC., :
803 Albert Street :
Dickson City, PA 18519 :

ISSCRP, LLC, :
c/o SCE ENVIRONMENTAL GROUP, INC., :
1380 Mount Cobb Rd :
Lake Ariel, PA 18436 :

CONTRACTOR TRANSPORT, LLC :
1380 Mount Cobb Rd :
Lake Ariel, PA 18436 :

AND :

CONTRACTOR TRANSPORT OpCo, LLC
1380 Mount Cobb Rd
Lake Ariel, PA 18436

Defendants.

COMPLAINT IN CONFESSION

Plaintiffs, United Steelworkers, District 10 and Pennsylvania Heavy & Highway Contractors Bargaining Association Pension Trust Fund and Plan (the "Plan"), a joint-labor management multiemployer pension plan, and one (1) of its Trustees, Michael Saporito ("Saporito", collectively, "Plaintiffs"), by and through their undersigned attorney, hereby file this complaint against Defendants Belladaro Group, Inc., SCE Environmental Group, Inc., J.C. Square GP, LLC, JC Square LP, Helicor Aviation, LLC, Valkarr Motorsports, LLC, Opashia, LLC, Susquehanna Partners, Inc., Flexible Auto Sales, Inc, ISSCRP, LLC, and Contractor Transport,

LLC, Contractor Transport OpCo, LLC (collectively “Defendants” or “Belladaro”).

THE PARTIES

1. Plaintiff, United Steelworkers, District 10 and Pennsylvania Heavy & Highway Contractors Bargaining Association Pension Trust Fund and Plan (the "Plan"), is a joint labor-management multiemployer pension plan established pursuant to Section 302(c)(5) of the Labor Management Relations Act, 29 U.S.C. § 186(c)(5). The Plan was created and is maintained to collect and receive contributions from various employers having collective bargaining agreements with the United Steelworkers, District 10 (the “Union”), and to provide pension benefits to eligible participants and beneficiaries.

2. The Plan is an "employee pension benefit plan" within the meaning of Section 3(2)(A) of the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1002(2)(A), as well as a "multiemployer plan" within the meaning of Section 3(37) of ERISA, 29 U.S.C. § 1002(37), and Section 4001(a)(3) of ERISA, 29 U.S.C. § 1301(a)(3).

3. The Plan is administered by Zenith American Solutions, which maintains an office at 3 Gateway Center 401 Liberty Ave. Suite 1200, Pittsburgh, Pennsylvania 15222.

4. Plaintiff Michael Saporito is a Trustee of the Plan, and therefore, is a fiduciary of the Plan within the meaning of Section 3(21) of ERISA, 29 U.S.C. § 1002(21).

5. Saporito, in his capacity as Trustee of the Plan, maintains his office and principal place of business at 315-317 North Washington Street Suite 2, Wilkes-Barre, Pennsylvania 18705.

6. Saporito has been authorized by Trustees of the Plan to bring this action on their behalf and on behalf of the Plan.

7. Defendants are employers in an industry affecting commerce within the meaning of Sections 3(5), (11) and (12) of ERISA, 29 U.S.C. §§ 1002(5), (11) and (12).

8. Defendants, Belladaro Group, Inc., SCE Environmental Group, Inc., J.C. Square GP, LLC, JC Square LP, Helicor Aviation, LLC, Valkarr Motorsports, LLC, Opashia, LLC, Susquehanna Partners, LLC., Flexible Auto Sales, Inc, ISSCRP, LLC, Contractor Transport, LLC, and Contractor Transport OpCo, LLC, jointly and severally, with any and all other unnamed entities which comprise two or more trades or businesses under common control are a part of the same controlled group within the meaning of 29 U.S.C. §1301 and 26 U.S.C. §414.

9. Defendant, Belladaro Group, Inc., is a Pennsylvania corporation that maintains an office and principal place of business at 1380 Mount Cobb Road, Lake Ariel, Pennsylvania 18436.

10. Defendant, SCE Environmental Group, Inc., is a Pennsylvania corporation that maintains an office and principal place of business at 1380 Mount Cobb Road, Lake Ariel, Pennsylvania 18436.

11. Defendant, J.C. Square GP, LLC, is a Pennsylvania company that maintains an office and principal place of business at 1380 Mount Cobb Road, Lake Ariel, Pennsylvania 18436.

12. Defendant, J.C. Square LP, is a Pennsylvania partnership that maintains an office and principal place of business at 1380 Mount Cobb Road, Lake Ariel, Pennsylvania 18436.

13. Defendant, Helicor Aviation, LLC, is a Pennsylvania company that maintains an office and principal place of business at 803 Albert Street, Dickson City, PA 18519.

14. Defendant, Valkarr Motorsports, LLC, is a Pennsylvania company that maintains an office and principal place of business at 803 Albert Street, Dickson City, PA 18519.

15. Defendant, Opashia, LLC, is a Pennsylvania company that maintains an office and principal place of business at 1380 Mount Cobb Road, Lake Ariel, Pennsylvania 18436.

16. Defendant, Susquehanna Partners, LLC, is a Pennsylvania company that maintains an office and principal place of business at 1380 Mount Cobb Road, Lake Ariel, Pennsylvania

18436.

17. Defendant, Flexible Auto Sales, Inc., is a Pennsylvania corporation that maintains an office and principal place of business at 803 Albert Street, Dickson City, PA 18519.

18. Defendant, ISSCRP, LLC, is a Pennsylvania company that maintains an office and principal place of business care of SCE Environmental Group, Inc., 1380 Mount Cobb Rd Lake Ariel, PA 18436.

19. Defendant, Contractor Transport, LLC, is a Pennsylvania company that maintains an office and principal place of business at 1380 Mount Cobb Road, Lake Ariel, Pennsylvania 18436.

20. Defendant, Contractor Transport OpCo, LLC, is a Pennsylvania company that maintains an office and principal place of business at 1380 Mount Cobb Road, Lake Ariel, Pennsylvania 18436.

JURISDICTION & VENUE

21. This Court has subject matter jurisdiction over this action pursuant to Section 4301 of the Multiemployer Pension Plan Amendments Act ("MPPAA"), 29 U.S.C. § 1451, Section 502 of ERISA, 29 U.S.C. § 1132, and 28 U.S.C. § 1331.

22. Jurisdiction and Venue are proper in this judicial district pursuant to Section 4301 of the MPPAA, 29 U.S.C. § 1451, and Section 502(e)(2) of ERISA, 29 U.S.C. § 1132(e)(2), because all Defendants are located in Lackawanna County, Pennsylvania which is in this judicial district. In addition, Plan business is conducted in Lackawanna County. Venue is also proper in this judicial district pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claim occurred in Lackawanna, Pennsylvania.

CAUSE OF ACTION

23. One or more Defendants were party to a collective bargaining agreement (“CBA”) between the United Steelworkers, District 10 and Pennsylvania Heavy & Highway Contractors Bargaining Association which obligated one or more Defendants to make prompt monthly contributions to the Plan. A true and correct copy of the Executed Authorization to Pennsylvania Heavy & Highway Contractors Bargaining Association is filed hereto as Exhibit A.

24. During 2012, the Defendants completely withdrew from the Plan, as defined by Section 4203(a)(2) of ERISA, 29 U.S.C. § 1383(a)(2).

25. As a result, the Plan assessed withdrawal liability to Defendants, and sent a letter to the Defendant Belladaro Group Inc. dated August 20, 2015 (the “Demand”) notifying that the Plan had calculated the Defendant’s withdrawal liability assessment in the single sum amount of \$246,978.00, payable in twenty-two (22) quarterly payments of \$11,153.75 and a final payment of \$1,595.50. A true and correct copy of the August 20, 2015 Initial Demand is filed hereto as Exhibit B.

26. The Plaintiffs and Defendants entered into a Settlement Agreement and Warrant of Attorney Judgement Note (“Settlement Agreement”) on March 29, 2017 regarding withdrawal liability payments outlined in the Demand. A true and correct copy of the Settlement Agreement and Warrant of Attorney Judgement Note is filed hereto as Exhibit C.

27. Pursuant to Paragraph 9 of the Settlement Agreement, in the event that Plaintiffs do not receive payment when due, the balance of the principal then owing, together with outstanding interest calculated at 7.5% per annum¹ shall be paid by Defendant after 30-day notice and 15-day cure periods.

¹ The Settlement Agreement states “interest [shall be] calculated at 7.5% *per month*”. *Emphasis added*. The Trustees believe this is an error and have calculated the interest 7.5% per annum.

28. Pursuant to Paragraph 9 of the Settlement Agreement, in the event that any payment identified above is not received when due, Plaintiffs may confess judgment on Defendants' behalf in the event of a default for such sum as is then owed with costs of suit and reasonable attorneys' fees added. *See* Exhibit C at Paragraph 9.

29. Defendants defaulted on the Agreement on January 1, 2021 in the amount of \$14,255.42, which resulted in a discrepancy of its payments in the total principal amount of \$71,227.10. On or about February 1, 2021, the Notice to Cure Default was provided to the last known address via Overnight Delivery and by electronic mail to Defendant SCE Environmental Group, Inc. A true and correct copy of the February 1, 2021 Notice to Cure Default is filed hereto as Exhibit D.

30. The Parties attempted to resolve this default by entering into the Second Addendum to the March 29, 2017 Settlement Agreement ("Second Addendum") executed July 19, 2021. A true and correct copy of the Fully Executed July 19, 2021 Second Addendum to the March 29, 2017 Settlement Agreement is filed hereto as Exhibit E. The Second Addendum illustrates the Parties agreed that the total principal amount of the liability was \$71,227.10. Pursuant to the Second Addendum, the Defendants were obligated to make a single lump sum payment of \$60,000² to the Plan thirty (30) days after the addendum was executed (August 18, 2021). *See id.*

² Second Addendum to March 29, 2017 Settlement Agreement, pg. 2,

"In full consideration of the Fund's execution of this Second Addendum to the Settlement Agreement, and its agreement to be legally bound by its terms, Belladaro will make a single lump-sum payment of \$60,000 within thirty calendar (30) days of the date that this Second Addendum to Settlement Agreement is fully executed by the Parties. Payment shall be made by wire transfer or by check delivered to the Fund Administrator. This payment schedule is based on the Parties' mutual understanding and agreement that Belladaro will not be required to make any additional payments with respect to the Assessment other than the payment described in this Paragraph."

31. On or about August 19, 2021 and August 23, 2021 the Plan received payments of \$2,000.00. A true and correct copy of the August 17, 2021 and August 20, 2021 checks is filed hereto as Exhibit F.

32. Pursuant to paragraph 9 of the Settlement Agreement, Defendants defaulted on the Second Addendum on August 18, 2021. The Notice to Cure Default, dated September 20, 2021, was provided to the last known address via Overnight Delivery to Defendant SCE Environmental Group, Inc. A true and correct copy of the September 20, 2021 Notice to Cure Default is filed hereto as Exhibit G.

33. On or about September 29, 2021 and October 4, 2021 the Plan received payments of \$2,000.00 but the Defendants have failed to make any further payment. A true and correct copy of the September 27, 2021 and October 1, 2021 checks is filed hereto as Exhibit H. The Defendants failure to make full payment is in violation of the Second Addendum. *See* Exhibit E.

34. Defendants have agreed to waive any stay of execution on the Judgment confessed. *See* Exhibit C.

35. The transaction upon which Plaintiffs seek judgment did not arise from a retail installment sale, contract, or account and was a business transaction.

36. The Defendants are neither incompetent nor infants, nor are the Defendants in military service.

37. This Court is authorized to enter judgment in these circumstances. *D.H. Overmyer Co. of Ohio v. Frick Co.*, 405 U.S. 174 (1972); *United States of America v. Stuart*, 392 F.2d 60 (3d Cir.1968); *See* Local Rule 54.1 – “Judgment by Confession”.

WHEREFORE, Plaintiffs request this Court to grant judgment in the form submitted herewith against the Defendants, jointly and severally, and in favor of the Plaintiffs in the amount of **\$63,781.61** (principal and interest as of filing date) plus attorneys' fees and costs incurred hereafter in collection of the amount due, with interest accumulating on the principal balance until the balance has been paid, and to grant such additional relief as is just. *See* Exhibit I.

Dated: October 6, 2021

Respectfully submitted,

SPEAR WILDERMAN, P.C.

BY: /s/Sarah Leah Tarlow

Sarah Leah Tarlow

PA ID# 323417

230 South Broad Street, Suite 1400

Philadelphia, PA 19102

T: (215) 732-0101

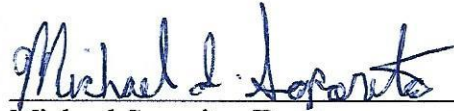
F: (215) 732-7790

starlow@spearwilderman.com

Attorney for Plaintiffs

VERIFICATION

I, Michael Saporito, Trustee for the United Steelworkers, District 10 and Pennsylvania Heavy & Highway Contractors Bargaining Association Pension Trust Fund and Plan, hereby certify that the statements in this pleading are true and correct to the best of my present knowledge, information and belief. I understand that the statements made herein are subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

A handwritten signature in blue ink, reading "Michael Saporito", is written over a horizontal line.

Michael Saporito, Trustee
United Steelworkers, District 10 and
Pennsylvania Heavy & Highway
Contractors Bargaining Association Pension
Trust Fund and Plan

Dated: October 6, 2021